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STATE OF DELAWARE
BOARD OF CLINICAL SOCIAL WORK EXAMINERS

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PUBLIC MEETING MINUTES:	BOARD OF CLINICAL SOCIAL WORK EXAMINERS
MEETING DATE AND TIME:	Monday, May 16, 2016 at 9:00 a.m.
PLACE:	861 Silver Lake Boulevard, Dover, Delaware Conference Room B , second floor of the Cannon Building
MINUTES FOR APPROVAL:	June 20, 2016

MEMBERS PRESENT

Rochelle Mason, Professional Member, **President**, Presiding
John Mucha, Professional Member, **Vice President**
Kyla Teed, Public Member **Secretary**
Florienda Scott-Cobb, Professional Member
Tara Donofrio, Public Member

DIVISION STAFF/DEPUTY ATTORNEY GENERAL PRESENT

David Mangler, Director of Professional Regulation
Eileen Kelly, Deputy Attorney General
Nicole Williams, Administrative Specialist II

MEMBERS ABSENT

Lori Scott, Professional Member
Sandra Bisgood, Public Member

ALSO PRESENT

Dwight Hymans, Executive Vice President, Association of Social Work Boards (ASWB)
Jennifer Henkel, Director of Member Services, ASWB
Dr. Marlene Saunders, Executive Director, National Association of Social Workers-DE (NASW-DE)
Ronna Glenn
Amy Bonner, Office of Management and Budget (OMB)
Amber Hall, OMB
Lisa Allison, OMB
Linda Hyler, Division of Services for Children, Youth and Families (DSCYF)
Daphne Warner, Prevention and Behavioral Health Services (PBHS)
Robert Dunleavy, PBHS

CALL TO ORDER

Ms. Mason called the meeting to order at 9:06 a.m.

REVIEW AND APPROVAL OF MINUTES

The Board reviewed April 18, 2016 minutes for approval. Mr. Mucha and Ms. Mason noted corrections to the minutes. Mr. Mucha moved, seconded by Ms. Mason, to approve the minutes as amended. Motion unanimously carried.

UNFINISHED BUSINESS

Discussion Regarding Joint Sunset Committee Recommendations

Ms. Mason stated that at 10 a.m. Dwight Hymans from the ASWB Board will be attending to speak with the Board about other jurisdictions in how they rolled out the multi-tier licensure. Mr. Hyman and a colleague will be arriving around 10 a.m. to address the Board and at that time the Board will be able to address any questions or concerns to ASWB. Discussion is tabled until later in the meeting and the Board will move forward to New Business on the agenda.

The Board began their multi-tier roll out discussion at 9:45 a.m. The Board and the other stakeholders present provided their introductions. Ms. Mason addressed the Board and the stakeholders present at today's meeting regarding the current draft legislation for the multi-tier licensure and the exemption for state employees as well the grandfathering clause as a result of the recommendations of the Joint Sunset Committee. The Board is at a juncture where they want to present a final of the draft bill to include those recommendations for the multi-tier licensure with the intent to move forward productively with the additional recommendations/comments from ASWB members and the other stakeholders present. Ms. Mason advised that she and Dr. Saunders along with other the Ad Hoc Committee members had a conference call with Mr. Hyman on the 20th of April. Ms. Mason read the minutes from this conference call with Mr. Hymans. Ms. Mason provided an overview of the conference call which entailed gathering information from Mr. Hymans pertaining to proposed regulations that would require licensure for baccalaureate and masters level social workers in Delaware for the sole purpose of protecting the public.

Mr. Hymans addressed the Board stating the purpose of the ASWB as they do not oversee because they have no authority at all but rather are only a resource for the DE Board and other State Boards trying to regulate the social work profession. One of the major resources provided by the ASWB is the licensure exam which measures the competency of those entering the profession to become licensed. ASWB's role is to serve the Board with the ability to provide the Board with additional resources.

Ms. Henkel advised the Board that the ASWB provides new member Board training which is a two and a half day training and completely free to the Board members. Ms. Scott-Cobb and Ms. Mason advised that in their attending the training it was very informative and interactive. Ms. Scott-Cobb advised that she was very impressed by the training and received a real knowledge and depth of scope of the practice of social work and how it functions from the training.

Mr. Hymans advised that the Board seems to have already addressed the "grand parenting" clause, exemption clause, and use of different titles. The ASWB's model law describes only three categories, BSW, bachelor's level social worker, MSW, master's level social worker and CSW, clinical level social worker. The ASWB strongly encourages all State Boards to adopt those three categories when making changes because it unifies the description of license categories in a way that allows the public to have a clear understanding with whom they are working.

Mr. Hymans advised the Board to state the areas of priority and then to discuss those areas in more depth. Ms. Mason advised that the grandfathering clause is the most difficult area for the Board. Ms. Mason directed the Board and others to the draft bill regarding section five, the exemption language, on page six. Ms. Kelly

advised that it was the consensus of the Board that the five years would allow anyone who is hired within that timeframe would not need a license; however after the five year mark all new hires would have to be licensed.

Ms. Warner entered the meeting at 9:59 a.m.

Ms. Bonner addressed the Board regarding the difference between an exemption and the grandfathering clauses. Ms. Kelly addressed the concern in stating the distinction between an exemption and the grandfathering clause. For those that are already State social workers, they will not need to get a license due to the exemption clause; however for any new State hire after the five years in order to be employed will need to have a social work license. Ms. Kelly further explained that the grandfathering clause means that anyone who meets certain criteria can be licensed as a social worker. Mr. Mangler additionally addressed Ms. Bonner with an explanation stating that if a current State worker in a social work position does not need to get a license if he or she so chooses not to so long as he or she stays in that position, but after five years of the enactment date of the new law if a new person is hired then he or she will need a license. Mr. Hymans sought clarification that the Board granting the five years was to give the State Department sufficient time to make changes within their job descriptions themselves. Ms. Kelly responded that is correct since there are people who are doing social work but called something else and there are those who are called social workers but not performing social work duties and the Board cannot make a stipulation to force those already state employed in a social work position to now get a license. Ms. Bonner advised that it was confusing as it was stated under exemptions. Mr. Mangler advised that certain types of work are exempt.

Ms. Mason inquired how the Board would address the social work issue without identifying every single position that the State has. Mr. Hymans advised that from a regulatory standpoint what most have done is examine the scope of practice for each tier, once the scope of practice is defined its then up to employers and individual social workers as to whether or not they need to be licensed as it is not the Board's duty to figure out if the person needs to be licensed or not. Specifically the Board's duty is to define what the practice of social work means for each level and then the employer decides if the person is practicing at what level and if so then if a license needed or not. Exemption means that the person will never need a license, however "grand parenting" means he or she have met certain requirements and will be now licensed under the Board. Ms. Mason inquired if the Board can get rid of the exemption clause altogether and just maintain the grandfathering clause. Mr. Hymans advised that other States have reached the decision that they have to do away with the exemption but are doing so with great difficulty, such as the States of New York, Minnesota, and Massachusetts. Ms. Henkel advised that due to the worst case scenario the State of Massachusetts was forced to regulate individuals performing social work duties in an effort to ensure protection of the public. Mr. Hymans suggested that if the Board chooses to keep the exemption clause then also to include in other areas of the regulation some authority over unlicensed practice. Whether someone who has not acquired a license but is practicing within the scope, but the Board has authority to at least investigate that individual and have some authority over them where some form of action/sanction can be taken against the individual should a violation be found. The ASWB's model law encompasses this matter allowing the Board to investigate and impose sanctions. Ms. Kelly responded that currently the Board has authority governing unlicensed practice, however if they are under the exemption it would not be unlicensed practice. Ms. Bonner inquired if Mr. Hymans means to remove exemption language, but replace with unlicensed practice language where the OMB would decide who they believe meets the definition for the scope of practice for social work and if wrong and something happens then the Board under the unlicensed practice language would have the authority to step in and say they are going to investigate the situation because the Board believes the person is practicing social work whereas the State misidentified that scope of practice. Mr. Hyman concurred with Ms. Bonner's explanation. Ms. Mason stated to leave the exemption definition in the current draft language but add an unlicensed practice clause in another area of the law as well. Ms. Kelly advised that she has not yet seen an unlicensed practice case within social work since she has represented the Board but as is the case with other professions, a cease and desist letter and a fine is given for unlicensed practice. The Board currently already has authority to sanction unlicensed practice.

Ms. Mason directed the Board another major issue for discussion: if the State reviews a job description and determines that the person is not performing any type of social work duties within the scope of practice of social work but are using the title of social work, would there be an issue to just simply change the person's title. According to Ms. Allison and Ms. Hall there are State employees in a position that have the social work title but do not perform any social work practices. Ms. Bonner advised that will be a discussion that will have to happen with Union involvement regarding the use of social work as a title as those positions are Union covered positions. They cannot simply just change the title.

Ms. Mason advised the Board to decide and be clear on whether they want to take out exemption, the word exemption, and replace with the unlicensed practice clause, which the Board can develop that language. Ms. Kelly inquired what to do about the workers that are already practicing social work but do not have a social work degree. The Board advised that they would come under the grandfathering clause for licensure. Ms. Kelly advised that under the grandfathering clause, the person has to meet the degree requirement and the exemption is for State employees that are already providing social work services. Ms. Kelly advised that the Board legally cannot force a state social worker employee to become licensed. Mr. Mangler advised that the fundamental problem revolves around the fact that legally the Board cannot force a current state employed social worker to become licensed. Ms. Mason reaffirmed to the Board that they need to make a decision today regarding the exemption clause and provided a deadline of June of 2016 as a goal for a draft bill to be presented. Ms. Mason prefers a draft bill that is complete, sound and concrete, that can be ready for movement and where the Board does not have to go back again and make more revisions. Ms. Mason requested that the Board make a determination to keep the exemption language in the draft as it is currently written. Ms. Bonner advised to revise the language of "newly employed" to "employed in a new position" so that for those State employees that are already in a current position with the opportunity to promote after the five year date cannot do so without meeting the requirement for licensure.

Ms. Hyler inquired if employed in a new position would include a move up in the career ladder, such as moving up to a higher position. Ms. Bonner advised that would be considered a new state position. Ms. Kelly stated that is the reason the exemption clause needs to stay in the current draft in addition to the grandfathering clause. Ms. Bonner advised that these changes could begin to be incorporated in job descriptions and postings sooner than the five year date requirement.

Ms. Henkel advised that the ASWB can definitely assist with spreading the information for the DE SW Board regarding regulations. Mr. Hymans responded that if the State system states a person cannot be forced to get a license then there is no clear way to work around that issue, unless a State legislator made it a requirement to get a license; however the "grand parenting" clause would afford those working within the scope of social work practice the opportunity to become licensed without having a degree in social work.

In regards to paragraph 5(exemption) Ms. Mason stated that for those already in social work they do not have to get a license as it would be optional to get a license, but everyone else could be highly encouraged to obtain the license. Ms. Bonner did not have a solid solution for the issue, but stated if the new changes are promoted and discussed now, then on the posting they can communicate that a person does not have to have a license now but in five years you will need to have a license in order to be promoted as communication is key. Ms. Hyler advised that those that are grandfathered in for licensure are not required to take the exam as well. Ms. Bonner feels that the bulk of these workers will work towards obtaining the license. Mr. Hymans advised for those that do not take advantage then they are locking themselves in a position with no opportunity to move forward. Mr. Hymans advised if there is a way to shorten the time period in paragraph 5 as he thinks it may be more of a merit position. Ms. Bonner advised that Ms. Allison and Ms. Hall will be working on that matter. Ms. Allison advised it will take a lot of outreach for their department. Ms. Bonner stated that it will need to include the Department of Labor Relations as well. Ms. Kelly inquired if five years was enough time. Ms. Bonner advised that even though three years seems like a long time, in all reality it is not, therefore the current five years is a sufficient time frame. Mr. Hymans advised that there has not been any real discussion from other States regarding timeframe; it has been more open ended with no time limit which is why New York and

Massachusetts are dealing with the open ended timeframe now. Ms. Bonner advised that she is content with the current five year timeframe but with the understanding on the non-title change piece of it.

The Board was ready to vote on the amendment to the draft language in paragraph 5 pertaining to exemption. Ms. Mason made a motion, seconded by Mr. Mucha, to accept the amended draft language regarding the exemption clause. Motion carried unanimously.

Ms. Mason read from the draft bill the grandfathering clause, section 3907A, for the Board to vote on approval. The grandfathering timeline is two years from enactment and applies to everyone not just State merit employees. Ms. Mason made a motion, seconded by Ms. Scott-Cobb, that the grandfathering language of the draft legislation be approved as written. Motion carried unanimously.

Ms. Henkel advised that the grandfathering language has accredited by the Council on Social Work Education (CSWE) however if the Board receives a Canadian applicant or some other foreign territory, the Board has no provisions for them to be licensed in the State. Ms. Henkel advised to state in addition to CSWE to put "as approved by the Board". Mr. Hymans advised that there has been a new thing regarding candidacy status and is a grey area therefore the language needs to say something about programs that are CSWE accredited or in candidacy status that are subsequently accredited. Ms. Kelly advised that currently the social work law does not have any language regarding applicants that are applying outside of the States. Mr. Hymans stated that the International CSWE and the Canadian CSWE has a foreign education credential program. Ms. Kelly inquired if the Board would like to add that language for everyone that is applying outside of the States. Dr. Saunders suggested that the language be somewhat like "CSWE or other comparable accreditation agency acceptable to the Board." Ms. Kelly will amend that language regarding accredited degree for those educated outside the United States. Mr. Hymans suggested that due to the social work programs in Canada being substantially equivalent to those programs in the States then for those international programs outside of Canada, to include language stating that having a degree evaluated for equivalency by an equivalency program or service approved by the Board without specifically naming the program of CSWE as there are other programs beside CSWE that provide equivalency evaluation. Mr. Hymans suggested placing that foreign equivalency program language in all areas where CSWE is mentioned in the draft language.

Ms. Bonner stated that other degrees that the OMB finds acceptable, she would like to send that listing to the Board to ensure that these other degrees are acceptable by the Board as well.

Mr. Hymans inquired about the degree requirements on page 12 under clinical social worker requirements for number 2 as it states doctoral or master's degree in social work as most doctoral degrees are PhD's or research focused only. The Board discussed amending the degree requirement language. Ms. Mason advised to revise the language to state at least a master's degree or doctoral degree as approved by the Board.

Mr. Hymans also stated on Page 12, (c) and (d) the effective date of seven years language is stated. The Board determined that language will be stricken. Ms. Kelly will remove that language.

Ms. Henkel inquired about the supervision language on page 12 number 4, if the Board intended to include that language. The Board advised that they thoroughly discussed that matter and therefore drafted that language based on the availability of a LCSW. Mr. Hymans advised the Board to be sure to weigh everything in regards to supervision and being supervised by a clinical supervisor and inquired about online supervision as well. Currently the Board has not yet discussed online supervision. Mr. Hymans noted on page 2 numbers 1 and 10 of the draft legislation regarding the time of seven years enactment date is mentioned. The Board will strike that seven years language. Mr. Hymans also inquired about the supervision in those sections, whether it was the Board's intent for the supervision to remain ongoing for the person's entire professional career as a BSW or MSW. Ms. Kelly advised that after first year of practice the person needs this type of supervision and then after that year, then a different level of supervision. Mr. Hymans inquired why only the BSW has this

supervision if they are in the scope of practice of a BSW. Ms. Mason inquired if that language was even required. Mr. Hymans advised that it does not appear to be necessary in the Board's draft legislation. Ms. Mason advised to strike out on page 2 section 1 "Baccalaureate social work shall be practiced only in organized settings such as social, medical or governmental agencies and may not be practiced independently. Baccalaureate social work shall be practiced only under the supervision of a Master's Social worker, a Licensed Clinical Social Worker, a licensed psychologist, or a licensed psychiatrist as set forth in the Board's rules and regulation" along with "Effective seven years after the date of enactment." Also strike out on page 3, section 10 "Master's social work shall be practiced only in organized settings such as social, medical or governmental agencies and may not be practiced independently. Master's Social Work shall be practiced only under the supervision of a Licensed Clinical Social Worker, a licensed psychologist, or a licensed psychiatrist as set forth in the Board's rules and regulations" along with "Effective seven years after the date of enactment."

Mr. Hymans advised the Board to look into ASWB's model law language regarding their current telehealth language which is called electronic social work services. Ms. Kelly advised that this language came from an external bill for our professions that have telehealth or telemedicine in order to stay consistent. Ms. Mason will take a look at ASWB's model law language to determine if it is more user-friendly.

Ms. Henkel inquired about the continuing education language which was stricken from the draft and Ms. Kelly advised the Board's continuing education is established in the rules and regulations.

Ms. Mason advised that the draft is quite ready with the Board has making significant changes to the exemptions and grandfathering clauses. Ms. Kelly advised to have the new draft reviewed by Ms. Mason as the Board President and make any comments/corrections. Ms. Mason asked that Ms. Kelly submit to the Board the revised draft legislation for review at the next Board meeting in June. The Board concluded their Joint Sunset Committee recommendations and moved to the next meeting date and adjournment.

NEW BUSINESS

Ratification of Applications to Sit for ASWB Clinical Exam

Mr. Mucha moved, seconded by Ms. Mason to ratify the application to sit for the ASWB Clinical Exam for Roy Haynes. Motion unanimously carried.

Mr. Mucha moved, seconded by Ms. Mason, to ratify the application to sit for the ASWB Clinical Exam for Shaniqua Johnson. Motion unanimously carried.

Ms. Mason made a motion, seconded by Mr. Mucha, to amend agenda to add the ratification of applications for licensure by exam for Kealy Johnson and Alicia Sholtz. Motion unanimously carried.

Ms. Mason moved, seconded by Mr. Mucha to ratify the application to sit for the ASWB Clinical Exam for both Kealy Johnson and Alicia Sholtz. Motion unanimously carried.

Ratification of Applications for Licensure by Reciprocity

There were none to ratify.

Review of Applications to Sit for ASWB Exam (Full Board Review Required)

There were none to review.

Review of Applications for Licensure by Reciprocity (Full Board Review Required)

Ms. Mason moved, seconded by Mr. Mucha, to approve the application for licensure by reciprocity for Karen Buckwalter. Motion unanimously carried.

Review and Consider Consent Agreements

There were none to review.

Review and Consider Hearing Officer Recommendation for Rule to Show Cause Hearing

There were none to review. Ms. Mason suggested that if there are no applications, consent agreements or recommendations for review to not add those titles to the agenda. Ms. Williams notated the Board's request for this change for future agendas.

CORRESPONDENCE

There was none for review.

OTHER BUSINESS BEFORE THE BOARD (FOR DISCUSSION ONLY)

Mr. Mucha advised the Board that there is a law being considered that has to deal with reporting of abuse. A Board member of the Psychology Board, Dr. Joe Zingaro advised that most people do not understand that the way that the law stands right now is that if and LCSW is in therapy with a client and the client states he or she was abused when a teenager the professional is supposed to report that abuse. Ms. Scott-Cobb advised that she does not understand that as this matter of reporting is enforced at the university level, during supervision and in preparation for the exam. Mr. Mucha inquired if it is the understanding that reporting should have always been the understanding of everyone. Ms. Mason responded that what occurred at that time has to be taken into consideration and the statute of limitations, if they have been exceeded, a person can always call and find out if that statute has been expired or not, so if a person wants to make that report he or she can call and DSF will make the determination; however Ms. Mason always assumed a report was still made. Mr. Mucha stated that there is a law that has been drafted to amend this, which will leave it between the client and the therapist as to determine whether to report the abuse or not; therefore the social work Board should be on the lookout for this.

Ms. Mason advised that the other business before the Board was that she and Dr. Saunders from NASW-DE corresponded with Mr. Hymans who will be here around 10 a.m.

Dr. Saunders entered the meeting at 9:20 a.m. and provided her public comment.

PUBLIC COMMENT

Dr. Saunders addressed the Board, and provided an update regarding the NASW-DE chapter's activities and meetings held. Dr. Saunders began by thanking the Board for allowing her to present on behalf of NASW-DE regarding the statutory revisions that will add bachelors and masters social work licensure criteria to the current social work statute. The NASW-DE would like to have draft legislation for the multi-tier licensure ready for the Joint Sunset Committee by June of this year. The stakeholder's meeting that was held last month provided in depth engagement for all parties involved which resulted in clarifications, for example, on the part of OMB that modifications to job titles are necessary. NASW-DE, all agency stakeholders and Ad Hoc Committee members want to ensure the public is protected. Information garnered from the ASWB at their Spring meeting solidified the understanding that the real purpose of regulation is that is to protect the public through regulations that place all social workers and others who perform social work services within the scope of social work practice as defined by the Delaware Regulations under the same regulatory umbrella. NASW-DE recommended distinguishing those that have a social work degree from those who do not by providing distinct initials, such as LHSP for individuals who do not have the social work degree. It was recommended to

have a grandfathering period for the typical three to five years which gives individuals the opportunity to make decisions regarding their licensure status. The NASW-DE looks forward to continuing to engage with other interested parties in supporting the draft legislation for multi-tier licensure to the Joint Sunset Committee in June and thereby putting Delaware on the track for the new frontier for social work practice. Dr. Saunders inquired if the Board has a timeline for receiving feedback before putting together its final draft legislation for the multi-tier licensure. Ms. Mason advised that as soon as the draft legislation is finalized, if that happens to be today, then the draft legislation will move forward as the public has been given ample information and time to respond and attend the meeting regarding these changes.

Ms. Kelly advised the Board that under the agenda topic of Unfinished Business, there is a social work bill she drafted dated today with the only change made to add the exemption, in which the Board had previously discussed, on page six. Ms. Mason read section five of the exemption language in the draft bill. Ms. Kelly advised she copied the exemption language from Minnesota's social work exemption statute. Ms. Kelly further stated that the time line of the exemption allows those to decide if they want to obtain a license until the five year window is met and then all new state hires must then obtain a license.

Ms. Mason inquired if Mr. Hyman had stated that five years was too long a window. Dr. Saunders responded that Mr. Hyman stated that seven years was too long. During the conference call Ms. Mason had with Dr. Saunders and Mr. Hyman, it was determined that three to five years is typical for the "grand parenting" period as defined by Mr. Hyman.

Ms. Kelly advised that the other change the Board requested was regarding the number of times a candidate can sit for the exam in the rules and regulations and where reciprocity applicants needed to show proof that they have passed an exam as well.

The Board took a 10 minute recess at 9:35 a.m.

Mr. Hyman and the other stakeholders entered the meeting at 9:45 a.m., therefore the Board was ready to begin the discussion on the draft legislation for multi-tier licensure for social work.

NEXT MEETING

The next meeting will be held on June 20, 2016 9:00 a.m. in Conference Room A.

ADJOURNMENT

Mr. Mucha moved, seconded by Ms. Teed, to adjourn the meeting. Motion unanimously carried. There being no further business before the Board, the meeting adjourned at 12:19 p.m.

Respectfully submitted,

A handwritten signature in black ink that reads "Nicole M. Williams". The signature is written in a cursive, flowing style.

Nicole Williams, Administrative Specialist II
Delaware Board of Clinical Social Work Examiners